

MINUTES OF THE MEETING  
FREE CONFERENCE COMMITTEE  
HOUSE BILL 236

April 22, 1985

The third meeting of the Free Conference Committee on House Bill 236 met in Room 331 of the Capitol Building at 11:15 a.m. The meeting was called to order by Chairman Chris Christiaens.

ROLL CALL: Present for the meeting were Rep. Bob Pavlovich, Rep. Gary Spaeth, Rep. Tom Jones, Rep. John Mercer, Senator Mike Halligan, Senator Gene Thayer and Chairman Chris Christiaens.

Rep. Pavlovich stated he would like readdress the grandfathering clause. He would like it to be a 2 year time period rather than 18 months because he still felt the 1987 session could deal with this issue if they felt it should be addressed.

Rep. Pavlovich then made a MOTION TO GRANDFATHER THE OLD MACHINES IN FOR A TWO YEAR TIME PERIOD.

Senator Halligan noted he was the one who wished to change it back to January 1987 because he felt it might be easier for the legislature to come in and take affirmative action if there were problems. Rep. Spaeth did not see the need for any change and could not see why July 1, 1987 was not ok. Senator Christiaens stated he felt no matter what is done with the bill it will be dealt with again in the 1987 session.

On a vote of Rep. Pavlovich's motion, the vote was 4 "no" and 3 "yes". The motion failed.

Senator Halligan then MOVED THE AMENDMENT WITH AN EXPIRATION DATE OF JANUARY 1, 1987. (EXHIBIT 1) There were 4 yes and 3 no votes. The motion failed because there were 3 members of the house who did not concur with the motion.

Rep. Mercer asked if this leaves the used video machines out and Senator Christiaens responded that was correct at this point.

Rep. Mercer felt there might be a constitutional problem with some language in the bill regarding a person not being able to play video draw poker under the age for consuming alcoholic beverages. In Montana, he felt this might be unconstitutional because you are considered an adult at the age of 18. He would like to put in the age of 18 in the bill. He then MOVED TO CHANGE THE AGE TO 18. (EXHIBIT 2, amendment 1) This motion carried.

Rep. Mercer was also concerned about the penalty provision. He felt it might be clearer to insert the word "knowingly" violates in the penalty provision. He felt perhaps a barowner might have a machine that had been tampered with without his knowledge and he would be the one who would be held responsible and be subjected to the fine. Rep. Spaeth felt this might create a problem because you could say you did not know the machine had been tampered with.

Rep. Mercer felt this might be devastating to a barowner if he had to pay a fine and was not really the responsible party for the act of tampering with the machine. Senator Christiaens felt it would be difficult for the state to prove who was guilty. Rep. Jones felt that 90% of the machines will be owned by the coin dealers anyway and if the barowner is not wise enough to make the coin operator responsible he should not be running the bar anyway.

Senator Halligan felt the present language was fine in the bill and would like to see the "knowingly" left out and addressed at a later time if necessary.

Rep. Mercer MADE A MOTION TO INSERT THE LANGUAGE "OF A PERSON WHO KNOWINGLY VIOLATES ANY PROVISION" (EXHIBIT 2, Amendment #2) On a vote, this motion failed to pass.

Mary McCue had prepared two options for the fee. The first option takes the local license fee from \$500 to \$1500 and takes the state share from \$2000 down to \$1000 with a 50/50 split. (EXHIBIT 3)

The second option changes the local fee from \$500 to \$1000 and the state from \$2000 down to \$1500 with the split being 1/3 and 2/3rds. (EXHIBIT 4)

Senator Thayer moved that OPTION 2 BE ADOPTED. This motion carried.

Senator Thayer noted that if the 6 month extension is all that remains in contention he would be willing to concede. Rep. Spaeth still felt the fee was a little too high but would be willing to go along with what had been decided upon. Rep. Pavlovich was also in agreement what what had been decided upon.

Rep. Mercer then presented his amendment for the local governments opting out if they so desired by putting it to a vote of the people. He felt if the voters of a particular county did not want to have the gambling they should be able to opt out. Senator Halligan felt this was a good idea to have this type of option. Senator Thayer wondered what it would cost to have this type of election. Mary McCue noted it could be put on the ballot of a special or a general election by the mechanism already in place by statute. Rep. Pavlovich opposed the local option however.

Senator Thayer wondered if this type of option prevailed if the counties that decided to opt out would then be entitled to any of the benefits of the revenue and was told they would not except of course by the general fund moneys.

Rep. Mercer then made a MOTION TO ADOPT THE LOCAL OPTION AMENDMENT. (Exhibit 5) The motion failed.

Senator Christiaens then distributed an amendment for the department of revenue for administration funds. His amendment read 11.5% but he felt this was too high and should be changed to 5%. Dave Schlosser noted the original fiscal note was made with the requirement for new machines and before grandfathering had been

discussed. He noted they would still have to certify and inspect each machine however and felt the 11.5% was still conservative. Rep. Jones felt the local governments will do all the policing that is necessary anyway. Dave Schlosser felt however that the local governments would not have the expertise to do the proper type of technical inspections. Rep. Pavlovich felt the local authorities could handle this however. Rep. Mercer felt the local governments would not be able to do the policing because all they really care about is whether or not the sticker is on the machine and whether or not it is licensed.

Senator Halligan wondered if there was any way to phase in the costs of administration. Dave Schlosser felt there might be a huge front end cost to set this up however.

Senator Christiaens felt with the 11.5% this would be about \$2,500,000. He felt 5% was a much more reasonable figure. If this was not enough they could always come in for a supplemental. Rep. Spaeth wondered if there would have to be spending authority in Senate Bill 500 for this.

Senator Christiaens MOVED TO CHANGE HIS AMENDMENT TO READ 5% INSTEAD OF 11.5%. (EXHIBIT 6) On a vote, this motion failed.

Senator Halligan MOVED TO CHANGE THE PERCENTAGE TO 8% RATHER THAN 11.5%. This motion carried.

Senator Halligan then MOVED TO INSERT THE WORDS "AND OPERATION" AFTER PLACEMENT ON PAGE 2, LINE 4. He felt this would clarify the definition of the licensee. (EXHIBIT 7) This motion carried.

Rep. Pavlovich MOVED TO CHANGE THE GRANDFATHERING OF THE OLD MACHINES TO JULY 1, 1987. Rep. Mercer stated for clarification this would mean any machine that was operated in the state before would be good until July 1, 1987 and any new machines purchased would have to meet the new specifications.

Rep. Pavlovich felt most people would want to get newer machines fairly soon anyway. Rep. Mercer wondered if it might generate some unfairness because the new machines will be keeping perfect track of income and the old ones will not have this advantage. He wondered if the printer should be kept off completely or require the printout on the old machines in order to be fair.

Senator Thayer asked Rep. Pavlovich why the extra 6 months was so very important to him and he stated he had first agreed to the 18 month time period but after talking it over with his constituents he felt a two year time period would be much better. Senator Christiaens wondered if most of the old machines would be gone by that time anyway if there was quite a turnover of machines. Rep. Pavlovich felt that perhaps 50% of the machines would be gone by the end of two years. He felt though by that time a component might be devised which could be put into the old machines for the printout and perhaps people would not have to buy a new machine.

Senator Christiaens wondered for clarification then if 50% of the people have new machines by the end of the two years, if we are talking about protecting only that 25% who still had an old machine in operation for this extension of time. Rep. Palvolich stated he is protecting those who had the machines before and had been paying taxes on them and he felt they were entitled to having those machines for two more years.

Rep. Mercer wondered if the machines could be transported across county lines and Rep. Palvolich explained that dealers have certain territories and sometimes they do cross the county lines. On the first vote of Rep. Pavlovich's motion to grandfather for two years the motion failed but after further consideration a vote was taken again and the motion passed.

The meeting was adjourned at 12:15 noon.

  
SENATOR CHRIS CHRISTIAENS, CHAIRMAN

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Proposed amendments to HB 236, reference copy

1. Page 10, line 19.

Following: line 18

Insert: "Section 12. Used video draw poker machines.

A used video draw poker machine may be licensed under [section 10] without meeting the requirements of subsections (4)(j), (4)(k), and (4)(o) of [section 3] if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to February 3, 1984. A license issued under this section expires 1 year from the date of issuance or on January 1, 1987, whichever occurs first."

Renumber: subsequent section

2. Page 10, line 25.

Following: line 24

Insert: "(3) Section 12 terminates on January 1, 1987."

Proposed amendments to HB 236, reference copy

1. Page 8, lines 20 and 21.

Following: "the"

Strike: "legal age for consuming or possessing  
alcoholic beverages"

Insert: "age of 18 years"

2. Page 9, lines 21 and 22.

Following: "(2)" on line 21

Strike: "A violation of [sections 1 through 5 and  
7 through 11] or a rule promulgated under [section 7]  
is"

Insert: "A person who knowingly violates any provision  
of [sections 1 through 5 and 7 through 12] commits"

PROPOSED AMENDMENT TO HOUSE BILL 236:

Option 1

1. Page 7, line 9.  
Following: "EXCEED"  
Strike: "\$500"  
Insert: "\$1500"

2. Page 9, line 6.  
Following: "of"  
Strike: "\$2,000"  
Insert: "1,000"  
Strike: "25%"  
Insert: "50%"

3. Page 9, line 7.  
Following: "forward"  
Strike: "75%"  
Insert: "50%"

PROPOSED AMENDMENT TO HOUSE BILL 236:

Option 2

1. Page 7, line 9.  
Following: "EXCEED"  
Strike: "\$500"  
Insert: "\$1,000"

2. Page 9, line 6.  
Following: "of"  
Strike: "\$2,000"  
Insert: "\$1,500"  
Following: "deposit"  
Strike: "25%"  
Insert: "one-third"

3. Page 9, line 7.  
Following: "forward"  
Strike: "75%"  
Insert: "two-thirds"



Proposed amendments to HB 236, reference copy

1. "Section 13. Local Option. (1) The electors of a county may, by approval of a majority of those voting on the question:
  - (a) prohibit the licensure and use of video draw poker machines in the county, including all cities and towns within the county; or
  - (b) if such prohibition had been previously approved; authorize their licensure and use in the county, including all cities and towns in the county, pursuant to [sections 1 through 13].
- (2) The proposal to submit such a question to the electorate of the county may be initiated:
  - (a) by a petition of the electorate substantially in compliance with 7-5-132(3) and 7-5-134 through 7-5-136; or
  - (b) by a resolution of the county governing body."

Renumber: subsequent section

2. Page 6, line 24.

Strike "Any"

Insert: "Unless prohibited by the county electorate pursuant to [section 13], any"

3. Page 8, line 2.

Strike: "A"

Insert: "Unless a license is requested in a county where prohibited, pursuant to [section 13], a"

EXHIBIT 6  
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Proposed amendment to HB 236, reference copy

1. Page 9, line 7.

Following: "fund"

Insert: ",except it may retain up to 11.5% of that  
25% to administer [sections 1 through 5 and 7 through  
12],"

EXHIBIT 7  
FREE CONFERENCE  
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Proposed amendment to HB 236, reference copy

1. Page 2, line 4.

Following: "placement"

Insert: "and operation"